



SERVICE OF CIVIL RESTRAINING ORDERS IN CERTAIN STATES

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SERVICE OF PROCESS

- In most of these eight states, various law enforcement officers are the agents authorized to serve process but the required timeframe to do so varies
- All of these states, except Connecticut, specify that service must be made in person and some states also specify alternative methods
- None of these states statutorily require tracking and monitoring of service but most require return of service to the court
- Only Connecticut specifies who funds the fees for service (the Judicial Branch)
- Most of these states require the court to notify law enforcement agencies of orders issued and some also require the use of a centralized database

ISSUE

This is a summary of the laws that govern the service of civil restraining orders in New England, New Jersey, and New York. The specific issues are:

1. who is authorized to serve an order and is service required within a certain timeframe,
2. what are the acceptable forms and methods of service,
3. is service tracked or monitored,
4. who funds the fees paid to agents who serve orders, and
5. whether law enforcement and the applicant are notified of (a) service and (b) issued or vacated orders?

SUMMARY

Restraining orders are typically issued in domestic disputes to prohibit one party (the respondent) from contact with another (the applicant) or from interfering with a child custody or visitation court order. Courts grant these orders after a hearing but sometimes do so ex parte (i.e., without a hearing) when the applicant is in imminent danger. Notice of the ex parte order or hearing must be delivered to the respondent within a specified timeframe, which is called service of process.

In a majority of the eight states, law enforcement agents are the agents authorized to serve process. Also, in most of these states, process must be served in person and a copy of the notice is generally an acceptable form. The New Jersey, New York, and Rhode Island statutes specify acceptable alternative methods and forms of service, such as mailing the notice to the respondent or publishing it in a newspaper. The time allowed to serve process varies from “immediately” to a specified amount of time before a hearing on the application, such as five days.

At least five of these states (Connecticut, New Hampshire, New Jersey, New York, and Vermont) statutorily require use of a computerized registry or database to track restraining orders. Only Connecticut’s statute specifies who funds the service of process fees (the Judicial Branch). In most of the states, the court is required to notify applicants of orders issued, but Rhode Island is the only state that requires the authorized agent to notify the applicant of return of service. Connecticut is the only state that requires the court to notify the school, college, or university the victim attends if he or she requests it. New York allows the clerk to file a copy of the order with the sheriff’s office or police department in the county or city where the victim attends school.

SERVICE OF RESTRAINING ORDERS

Authorized Agents

As Table 1 shows, in New England and the surrounding states, the people statutorily authorized to serve process pertaining to civil restraining orders include state marshals, constables, law enforcement agents (i.e., state police, sheriffs, and municipal and county police officers), court security officers, and peace officers.

Maine, Massachusetts, New Jersey, and Rhode Island require the court to provide the order to the authorized agent for service. New York requires the court to provide the order to the agent unless the petitioner states on the record that he or she will do so. In Connecticut, it is the applicant’s responsibility to provide the order to the agent for service.

Form of Notice

Across the New England and surrounding states, as shown in Table 1, a copy of the order or hearing notice is generally acceptable for service of process purposes. The New Hampshire, Rhode Island, and Vermont statutes are silent on this issue.

Service Fees

Connecticut is the only state that specifies the agency that must provide funding for service of process fees (the Judicial Branch). New York prohibits peace officers and police officers from charging a fee for service of process. In Rhode Island, sheriffs are not paid to serve process, but constables receive the same fees allowed for family court summons (funding is not specified).

Table 1: Service Agent, Notice, and Fees

State (Statutory citation)	Authorized Agent	Who Provides the Order to the Authorized Agent?	Form of Notice (i.e., original, copy, fax, etc.)	Fees for Service (Funding)
Connecticut (CGS §§ 46b- 15, et. seq.)	<ul style="list-style-type: none"> State marshals Constables Other proper officers authorized by statute 	The applicant must cause notice of the hearing, copy of the application, affidavit, and any ex parte order to be served on the respondent	<ul style="list-style-type: none"> Notice of hearing – not specified Application – copy Affidavit – copy Ex parte order - copy 	Judicial Branch pays service costs
Maine (ME. REV. STAT. Tit.19A § 4001)	<ul style="list-style-type: none"> Law enforcement agency (i.e., State Police, sheriff's department, or municipal police department) Court security officer, if defendant is present in the courthouse Department of Corrections, if defendant is incarcerated 	Court	Printed copies of electronically transmitted orders	Not specified
Massachusetts (MASS. GEN. LAWS ch. 208 § 34C & ch. 209A §§ 1, et. seq.)	Law enforcement agency – “law officers” (i.e. any officer authorized to serve criminal process)	Register or clerk-magistrate	Copy	Not specified
New Hampshire (N.H. REV. STAT. § 173- B:1, et. seq.)	<ul style="list-style-type: none"> Peace officer Sheriff's department 	Not specified	Form of notice to defendant is not specified	Not specified
New Jersey (N.J. STAT. §§ 5:7A & 2C:25- 17, et. seq.)	<ul style="list-style-type: none"> Police Sheriff, if temporary restraining order is issued during regular court hours <p>(The plaintiff must never be required to serve an order on the defendant.)</p>	Court	A copy of the complaint must be served on the defendant (see Table 2 for alternative methods if personal service fails)	Not specified
New York (N.Y. FAM. CT. ACT §§ 153-b, 168, 826 & 828 and N.Y. EXEC. LAW § 221-a)	<ul style="list-style-type: none"> Peace officer Sheriff's office County or Municipal officer Police department New York City police department representative (only within the city) 	Court clerk, unless the petitioner states on the record that he or she will deliver the order to a peace or police officer directly for service	<ul style="list-style-type: none"> Original True copy (see Table 2 for alternative methods if personal service fails) 	Peace officers and police officers cannot charge a fee for service of process

Table 1 (continued)

State (Statutory citation)	Authorized Agent	Who Provides the Order to the Authorized Agent?	Form of Notice (i.e., original, copy, fax, etc.)	Fees for Service (Funding)
Rhode Island (R.I. GEN. LAWS §§ 15-15-1, et. seq. & 45-16- 4.3)	<ul style="list-style-type: none"> • Sheriffs • Constables • Police officers, if temporary order was not served and/or after permanent order is entered 	Court clerk	Not specified for in-person service (see Table 2 for alternative methods if personal service fails)	<ul style="list-style-type: none"> • Funding not specified • Sheriffs – no fees • Constables – receive same fees allowed for family court summons
Vermont (VT. STAT. 15 §§ 1101, et. seq.)	Law enforcement officer	Not specified	Not specified	Not specified

Service of Process Methods

As Table 2 shows, in most of the New England and surrounding states, process must be served on a respondent in person. Connecticut does not specify the method of service for an initial application. However, both Connecticut and New Hampshire allow subsequent orders to be mailed to the respondent.

New Jersey, New York, and Rhode Island allow alternative methods of service if personal service fails. In New Jersey alternative methods are those the court deems appropriate. Both New York and Rhode Island allow alternatives such as (1) delivery in person to certain people where the respondent works or lives and (2) mailing a copy to the respondent's last known residence. Rhode Island also allows publication in a newspaper for two consecutive weeks.

None of the states in the region specify in statute whether short form notification is an acceptable method of serving process. However, in Illinois, short form notification is used as a means to effectuate service of process on an unserved respondent during a traffic stop or other routine contact with a law enforcement officer (see 725 ILL. COMP. STAT. 5/112A and [Illinois LEADS Policy and Procedure](#)).

Table 2: Methods of Service

State (Statutory citation)	Method of Service of Process	What Happens if the Authorized Agent is Unable to Serve Process? (alternative methods)	Use of Short Form Notifications
Connecticut (CGS §§ 46b-15 , et. seq.)	<ul style="list-style-type: none"> • Not specified for service on initial application • Service on a motion to extend an order may be made by first-class mail to the respondent's last-known address, if the respondent does not appear upon the initial application 	Not specified	Not specified
Maine (ME. REV. STAT. Tit. 19A § 4001)	In person	Not specified	Not specified

Table 2 (continued)

State (Statutory citation)	Method of Service of Process	What Happens if the Authorized Agent is Unable to Serve Process? (alternative methods)	Use of Short Form Notifications
Massachusetts (MASS. GEN. LAWS ch. 208 § 34C & ch. 209A §§ 1, et. seq.)	In person	Not specified	Not specified
New Hampshire (N.H. REV. STAT. § 173- B:1, et. seq.)	<ul style="list-style-type: none"> • Temporary orders must be served on the defendant • Subsequent orders must be sent to defendant's address of record • Temporary orders may be issued ex parte by telephone or fax by a circuit court judge to a law enforcement officer 	Not specified	Not specified
New Jersey (N.J. STAT. §§ 5:7A & 2C:25- 17, et. seq.)	In person (see alternative methods used if personal service fails)	If personal service cannot be made, the court may order other appropriate methods of service (alternative methods are not specified)	Not specified
New York (N.Y. FAM. CT. ACT §§ 153-b, 168, 826 & 828 and N.Y. EXEC. LAW § 221-a)	In person (see alternative methods used if personal service fails)	<p>If personal service fails after reasonable efforts, the court may order substituted service in a manner provided for other civil process.</p> <p>The methods of substituted service include:</p> <ul style="list-style-type: none"> • delivery in person to a person of suitable age and discretion at the place where the respondent works or lives and mailing another copy to his or her last known residence; • delivery to the respondent's agent; • physically affixing the summons to the respondent's business or residence and mailing another copy to his or her last known residence; or • any other reasonable method devised by the court 	Not specified
Rhode Island (R.I. GEN. LAWS §§ 15-15-1, et. seq. & 45-16- 4.3)	In person (see alternative methods used if personal service fails)	<ul style="list-style-type: none"> • Agent must note attempts made and why service failed on the summons • If personal service fails, alternative methods of service may be ordered, including (1) certified or regular mail to the defendant's last known address (other than the residence he or she was ordered to vacate) or place of employment, (2) leaving copies with a person of suitable age at the defendant's dwelling or usual place of abode, or (3) publication in a newspaper for two consecutive weeks • Court sets new date for hearing and extends any temporary order until that date 	Not specified
Vermont (VT. STAT. 15 §§ 1101, et. seq.)	<ul style="list-style-type: none"> • In person • Orders must be served in a manner calculated to ensure the plaintiff's safety • Methods that provide advance notification to the defendant are prohibited 	<p>If service of a notice of hearing cannot be made before the scheduled hearing, the court must:</p> <ul style="list-style-type: none"> • continue the hearing and • extend the terms of the order, upon the plaintiff's request, for any additional time it deems necessary to achieve service on the defendant 	Not specified

Tracking and Monitoring Service of Process

Depending on the state, the time allowed to serve process varies (see Table 3). New Jersey specifies that process must be served “immediately.” In states like Massachusetts, New Hampshire, and New York, process must be served “promptly.” Some states specify an amount of time before the hearing by which process must be served, namely:

1. New York – at least 24 hours before the scheduled appearance and
2. Connecticut – at least five days before the hearing.

As Table 3 also shows, none of the states in the region statutorily require tracking and monitoring of service but most require return of service to the court and notification to law enforcement agencies. Five states (Connecticut, New Hampshire, New Jersey, New York, and Vermont) require the use of a centralized registry or database.

Table 3: Tracking and Monitoring

State (Statutory citation)	Time Allowed to Serve Process	Tracking and Monitoring Service of Process
Connecticut (CGS §§ 46b-15 , et. seq.)	<ul style="list-style-type: none"> • Notice must be served at least five days before the hearing • Hearing must be held within 14 days after the date of an ex parte order 	<ul style="list-style-type: none"> • Not specified but immediately after process has been served, the agent must notify the appropriate law enforcement agencies by fax or other means • An automated protective orders registry, which includes restraining orders, is maintained by the chief court administrator
Maine (ME. REV. STAT. Tit.19A § 4001)	Authorized agent must make a good faith effort to serve process expeditiously	Not specified but the agent must return proof of service by electronic transmission to the court
Massachusetts (MASS. GEN. LAWS ch. 208 § 34C & ch. 209A §§ 1, et. seq.)	<ul style="list-style-type: none"> • Return of service must be sent to the court promptly • Hearing must be held within 10 court business days after temporary order is issued 	Not specified
New Hampshire (N.H. REV. STAT. § 173-B:1, et. seq.)	<ul style="list-style-type: none"> • Temporary orders must be served promptly • Hearing must be held within the later of 30 days after the application or 10 days after service of process (hearing date may be extended for an additional 10 days for good cause) • For non-telephonic ex parte orders, the hearing must be held between three and five business days after the defendant’s request for a hearing is received by the court clerk 	Not specified for service of process but orders are tracked in a statewide database maintained by the court’s administrative office
New Jersey (N.J. STAT. §§ 5:7A & 2C:25-17, et. seq.)	<ul style="list-style-type: none"> • Process must be served on the defendant immediately • A hearing must be held within 10 days of the filing of a complaint 	<ul style="list-style-type: none"> • Not specified in statute but the temporary restraining order form indicates that the police or sheriff’s department must send the return of service to the court prior to the hearing • The Administrative Office of the Courts must establish and maintain a central registry of all people who have had domestic violence restraining orders entered against them

Table 3 (continued)

State (Statutory citation)	Time Allowed to Serve Process	Tracking and Monitoring Service of Process
New York (N.Y. FAM. CT. ACT §§ 153-b, 168, 826 & 828 and N.Y. EXEC. LAW § 221-a)	<ul style="list-style-type: none"> • Promptly • Service of a summons and petition must be made at least 24 hours before the time stated for appearance • If the respondent requests it, the hearing cannot be held earlier than three days after service of process 	<ul style="list-style-type: none"> • Not specified but the agent who receives a copy of the order from the court clerk must transmit the information on the order over the law enforcement communication system. • The agent must (1) give the court affirmation, certificate, or affidavit of service or attempted service and (2) report the date and time of service to the statewide computer registry • The statewide computerized registry is used for warrants and protection orders issued
Rhode Island (R.I. GEN. LAWS §§ 15-15-1, et. seq. & 45-16-4.3)	Return of service must be forwarded to the court clerk prior to the hearing date	Not specified but the agent must notify law enforcement and the applicant of return of service
Vermont (VT. STAT. 15 §§ 1101, et. seq.)	<ul style="list-style-type: none"> • Process must be served at the earliest possible time before the scheduled hearing • Return of service must be filed with the court and state the date, time, and place at which the order was delivered to the defendant • Hearing must be held within 10 days after the temporary restraining order is issued 	Not specified but the court must transmit a copy of the order to the Department of Public Safety's Protection Order Database

Notification to Law Enforcement, Applicant, and Others

As Table 4 shows, the requirements for notification to law enforcement or the applicant of (1) service or (2) issued or vacated orders vary across the states.

Law Enforcement. Connecticut, New York, and Rhode Island require agents to inform the law enforcement agencies that process was served. All of these states, except Vermont, statutorily require the court to transmit orders to local law enforcement agencies. New York is the only state that specifically allows the petitioner to file a copy of the order with any appropriate police department or sheriff's office.

In Connecticut, New Hampshire, New Jersey, New York, and Vermont, law enforcement agencies also receive information through each state's respective centralized registry or database (see Tables 3 and 4).

Applicant. Rhode Island is the only state that requires agents (specifically sheriffs and constables) to notify an applicant of return of service. However, Connecticut, Maine, New York, and Rhode Island require the court to notify the applicant of an order.

Others. In Connecticut, Maine, Massachusetts, and New York, the court must notify the defendant of an order. In Rhode Island, the police must do so.

Connecticut is the only state that requires the court to notify, on the victim's request, the school, college, or university the victim attends.

Table 4: Notification

State (Statutory citation)	Notice to Law Enforcement and Applicant of (1) Service and (2) Issued and Vacated Orders		
	Law Enforcement	Applicant	Others
Connecticut (CGS §§ 46b-15 , et. seq.)	<ul style="list-style-type: none"> The agent must immediately notify (by fax or other means) the law enforcement agencies for the town in which the applicant and the respondent lives and the town where the applicant works, of the date and time that service was made The court clerk must notify (by fax or other means) the law enforcement agencies for the town in which the applicant and the respondent lives and the town where the applicant works, of any order it issues (ex parte or after a hearing) within 48 hours after the order is issued When an order is entered in the protective order registry, the registry automatically faxes it to the designated law enforcement agencies 	The court clerk must provide the applicant with copies of an order issued after a hearing	<ul style="list-style-type: none"> The court clerk must provide the respondent with copies of an order issued after a hearing If the victim is a student and he or she requests it, the court must notify his or her (1) school or (2) college or university, including its president and special police force
Maine (ME. REV. STAT. Tit. 19A § 4001)	The clerk must issue a copy of an order, agreement, amendment, or revocation to the law enforcement agencies the court determines most likely to enforce it	The clerk must issue a copy of an order, agreement, amendment, or revocation to the plaintiff	The clerk must issue a copy of an order, agreement, amendment, or revocation to the defendant
Massachusetts (MASS. GEN. LAWS ch. 208 § 34C & ch. 209A §§ 1, et. seq.)	The court notifies law enforcement agencies of orders issued	Not Specified	The court must notify the defendant immediately when a temporary order has been issued
New Hampshire (N.H. REV. STAT. § 173-B:1, et. seq.)	<ul style="list-style-type: none"> The court's administrative office must enter orders into the state database which must be available to police and sheriff departments statewide The Department of Safety must make available to police and sheriff departments statewide information on telephonically issued emergency orders Court-ordered changes or modifications must be (1) mailed or otherwise provided to the appropriate local law enforcement agency and (2) transmitted to the Department of Safety within 24 hours after entry of the change or modification 	Not specified	Not specified
New Jersey (N.J. STAT. §§ 5:7A & 2C:25-17, et. seq.)	<ul style="list-style-type: none"> The court must immediately forward an order granting emergency relief and the complaint to the (1) appropriate law enforcement agency and (2) police of the municipality in which the plaintiff resides or is sheltered The clerk or other person designated by the court must also send notice of temporary and final orders to the (1) appropriate chiefs of police, (2) members of the state police, and (3) other appropriate law enforcement agencies or courts 	Not specified	Not specified

Table 4 (continued)

State (Statutory citation)	Notice to Law Enforcement and Applicant of (1) Service and (2) Issued and Vacated Orders		
	Law Enforcement	Applicant	Others
New York (<i>N.Y. FAM. CT. ACT §§ 153-b, 168, 826 & 828 and N.Y. EXEC. LAW § 221-a</i>)	<ul style="list-style-type: none"> • The agent who receives a copy of the order from the court clerk must promptly transmit the information on the order over the law enforcement communication system, including the date such order becomes effective, the date such order was served, and whether the defendant or respondent had actual knowledge of such order because he or she was present in court when the order was issued • When a peace officer or police officer receives a warrant issued by a family court, supreme court, or criminal court pertaining to an order of protection, the officer must promptly dispatch specific information on the warrant over the law enforcement communication system • The court clerk may file a copy of the order with the sheriff's office or police department in the county or city where anyone to be protected by the order lives, works, or attends school • The petitioner may file a copy of the order with any appropriate police department or sheriff's office with jurisdiction 	The court clerk must issue a copy of the order to the petitioner	<ul style="list-style-type: none"> • The court clerk must issue a copy of the order to the defendant • The court clerk may file a copy of the order with the sheriff's office or police department in the county or city where the victim lives, works, or attends school
Rhode Island (<i>R.I. GEN. LAWS §§ 15-15-1, et. seq. & 45-16-4.3</i>)	<ul style="list-style-type: none"> • The sherriff or constable must notify law enforcement agencies of return of service • Court clerk notifies law enforcement agencies of orders 	<ul style="list-style-type: none"> • The sheriff or constable notifies the applicant of return of service • The court clerk notifies the applicant of orders 	When a permanent order is entered, a police officer must give a certified copy of the order to the defendant
Vermont (<i>VT. STAT. 15 §§ 1101, et. seq.</i>)	Not specified but the Department of Public Safety maintains a protection order database	Not specified	The court must transmit a copy of the order to the Department of Public Safety's Protection Order Database

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